

SB039_L.001

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Health & Human Services.SB13-039 be amended as follows:

- 1 Amend printed bill, page 2, strike lines 6 and 7.
- 2 Page 3, line 10, strike "PART 1." and substitute "ARTICLE."
- 3 Page 4, strike line 7 and substitute:
 - 4 "(b) PRESCRIBING, SELECTING,".
- 5 Page 5, strike lines 7 through 9 and substitute:
 - 6 "(c) A STUDENT ENROLLED IN A COURSE OF STUDY LEADING TO A
 - 7 DEGREE IN AUDIOLOGY OR THE HEARING OR SPEECH SCIENCES AT AN
 - 8 INSTITUTION OF HIGHER EDUCATION OR POSTSECONDARY EDUCATION
 - 9 ACCREDITED BY A NATIONAL, REGIONAL, OR STATE AGENCY RECOGNIZED
 - 10 BY THE UNITED STATES DEPARTMENT OF EDUCATION WHO IS PRACTICING
 - 11 AUDIOLOGY, IF THE STUDENT IS SUPERVISED BY A LICENSED AUDIOLOGIST
 - 12 AND THE STUDENT'S DESIGNATED TITLE CLEARLY INDICATES HIS OR HER
 - 13 STATUS AS A STUDENT; OR".
- 14 Page 5, line 16, strike "PART 1:" and substitute "ARTICLE:".
- 15 Page 6, line 4, strike "RECEIPTS, AS REQUIRED" and substitute "RECEIPTS.".
- 16 Page 6, strike line 5.
- 17 Page 6, line 7, strike "PART 1," and substitute "ARTICLE,".
- 18 Page 6, line 25, strike "PART 1" and substitute "ARTICLE".
- 19 Page 7, line 9, strike "PART" and substitute "ARTICLE:".
- 20 Page 7, strike line 10.
- 21 Page 7, line 18, strike "NATIONAL HEALTH CARE" and substitute "FEDERAL
- 22 GOVERNMENT".
- 23 Page 8, line 2, strike "MALPRACTICE COVERAGE IN AN" and substitute
- 24 "PROFESSIONAL LIABILITY INSURANCE IN THE FORM AND".



- 1 Page 8, line 3, strike "DIRECTOR." and substitute "DIRECTOR PURSUANT TO
2 SECTION 12-29.9-112.".
- 3 Page 8, line 9, strike "NUMBER" and substitute "NUMBER, THE NAME OF
4 THE COURT,".
- 5 Page 8, line 12, strike "PART 1 AND SHALL" and substitute "ARTICLE.".
- 6 Page 8, strike lines 13 through 15.
- 7 Page 8, line 16, strike "PART 1" and substitute "ARTICLE".
- 8 Page 8, line 24, strike "PART 1" and substitute "ARTICLE".
- 9 Page 9, line 9, strike "PART 1;" and substitute "ARTICLE;".
- 10 Page 9, line 12, strike "SHALL" and substitute "MAY".
- 11 Page 9, line 17, strike "PART 1" and substitute "ARTICLE".
- 12 Page 9, line 19, strike "PART 1" and substitute "ARTICLE".
- 13 Page 9, strike lines 23 through 26 and substitute "(1) UPON PROOF THAT
14 AN APPLICANT OR LICENSEE HAS ENGAGED IN AN ACTIVITY THAT IS
15 GROUNDS FOR DISCIPLINE UNDER SUBSECTION (2) OF THIS SECTION, THE".
- 16 Page 10, line 6, after "APPROPRIATE;" add "OR".
- 17 Page 10, line 8, strike "LICENSEE; OR" and substitute "LICENSEE.".
- 18 Page 10, strike line 9.
- 19 Page 10, line 15, strike "PART 1," and substitute "ARTICLE,".
- 20 Page 10, line 20, strike "PART 1;" and substitute "ARTICLE;".
- 21 Page 10, line 22, strike "PART 1" and substitute "ARTICLE".
- 22 Page 10, line 23, strike "PART 1" and substitute "ARTICLE".

1 Page 10, strike lines 24 and 25 and substitute:

2 "(f) FAILING TO MAINTAIN PROFESSIONAL LIABILITY INSURANCE AS
3 REQUIRED BY SECTION 12-29.9-112;"

4 Page 11, line 14, after "WITH" insert "OR ORDER ISSUED BY".

5 Page 11, after line 14 insert:

6 "(p) FALSIFYING INFORMATION IN ANY APPLICATION OR
7 ATTEMPTING TO OBTAIN OR OBTAINING A LICENSE BY FRAUD, DECEPTION,
8 OR MISREPRESENTATION;

9 (q) EXCESSIVELY OR HABITUALLY USING OR ABUSING ALCOHOL OR
10 HABIT-FORMING DRUGS OR HABITUALLY USING A CONTROLLED
11 SUBSTANCE, AS DEFINED IN SECTION 18-18-102, C.R.S., OR OTHER DRUGS
12 HAVING SIMILAR EFFECTS; EXCEPT THAT THE DIRECTOR HAS THE
13 DISCRETION NOT TO DISCIPLINE THE LICENSEE IF HE OR SHE IS
14 PARTICIPATING IN GOOD FAITH IN A PROGRAM APPROVED BY THE DIRECTOR
15 TO END THE USE OR ABUSE;

16 (r) (I) FAILING TO NOTIFY THE DIRECTOR, AS REQUIRED BY SECTION
17 12-29.9-113, OF A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT
18 IMPACTS THE LICENSEE'S ABILITY TO PERFORM AUDIOLOGY WITH
19 REASONABLE SKILL AND SAFETY TO PATIENTS;

20 (II) FAILING TO ACT WITHIN THE LIMITATIONS CREATED BY A
21 PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERS THE
22 LICENSEE UNABLE TO PERFORM AUDIOLOGY WITH REASONABLE SKILL AND
23 SAFETY TO THE PATIENT; OR

24 (III) FAILING TO COMPLY WITH THE LIMITATIONS AGREED TO
25 UNDER A CONFIDENTIAL AGREEMENT ENTERED PURSUANT TO SECTION
26 12-29.9-113;

27 (s) REFUSING TO SUBMIT TO A PHYSICAL OR MENTAL EXAMINATION
28 WHEN SO ORDERED BY THE DIRECTOR PURSUANT TO SECTION 12-29.9-114;

29 Reletter succeeding paragraphs accordingly.

30 Page 11, after line 22, insert:

31 "(3) WHEN A COMPLAINT OR INVESTIGATION DISCLOSES AN
32 INSTANCE OF CONDUCT THAT DOES NOT WARRANT FORMAL ACTION BY THE
33 DIRECTOR AND, IN THE OPINION OF THE DIRECTOR, SHOULD BE DISMISSED,
34 BUT THE DIRECTOR HAS NOTICED INDICATIONS OF POSSIBLE ERRANT

1 CONDUCT BY THE LICENSEE THAT COULD LEAD TO SERIOUS CONSEQUENCES
2 IF NOT CORRECTED, THE DIRECTOR MAY SEND THE LICENSEE A
3 CONFIDENTIAL LETTER OF CONCERN."

4 Renumber succeeding subsections accordingly.

5 Page 12, line 1, strike "PART 1" and substitute "ARTICLE".

6 Page 12, line 3, strike "PART 1" and substitute "ARTICLE".

7 Page 12, line 8, strike "PART" and substitute "ARTICLE;"

8 Page 12, line 9, strike "1;" and strike "(5)" and substitute "(6)".

9 Page 12, line 11, strike "PART 1." and substitute "ARTICLE."

10 Page 12, line 16, strike "LICENSEE, BY CERTIFIED MAIL," and substitute
11 "LICENSEE".

12 Page 12, line 18, strike "(6)," and substitute "(7),"

13 Page 13, line 7, strike "PART 1" and substitute "ARTICLE".

14 Page 13, line 8, strike "PART 1." and substitute "ARTICLE."

15 Page 13, line 11, strike "PART 1." and substitute "ARTICLE."

16 Page 13, line 23, strike "PART 1." and substitute "ARTICLE."

17 Page 14, line 15, strike "OCTOBER 1, 2013" and substitute "DECEMBER 31,
18 2013, AND AS NECESSARY THEREAFTER".

19 Page 14, line 16, strike "ALL".

20 Page 14, line 17, strike "PART 1," and substitute "ARTICLE,"

21 Page 15, line 10, strike "PART 1" and substitute "ARTICLE".

22 Page 15, line 15, strike "PART 1," and substitute "ARTICLE,"

23 Page 15, line 16, strike "PART 1," and substitute "ARTICLE,"

- 1 Page 17, line 1, strike "PART" and substitute "ARTICLE,".
- 2 Page 17, line 2, strike "1,".
- 3 Page 17, line 18, strike "PART" and substitute "ARTICLE,"
- 4 Page 17, line 19, strike "1," and strike "PART 1," and substitute
5 "ARTICLE,".
- 6 Page 17, line 20, strike "PART 1;" and substitute "ARTICLE;".
- 7 Page 17, line 22, strike "PART 1." and substitute "ARTICLE.".
- 8 Page 18, line 8, strike "PART 1" and substitute "ARTICLE".
- 9 Page 18, line 15, strike "PART" and substitute "ARTICLE,".
- 10 Page 18, line 16, strike "1," and strike "PART" and substitute "ARTICLE".
- 11 Page 18, line 17, strike "1".
- 12 Page 18, line 26, strike "PART 1" and substitute "ARTICLE".
- 13 Page 19, after line 1 insert:
- 14 **"12-29.9-112. Professional liability insurance required - rules.**
- 15 (1) (a) EXCEPT AS PROVIDED IN PARAGRAPH (b) OF THIS SUBSECTION (1),
- 16 AN AUDIOLOGIST SHALL NOT PRACTICE AUDIOLOGY UNLESS THE
- 17 AUDIOLOGIST PURCHASES AND MAINTAINS OR IS COVERED BY
- 18 PROFESSIONAL LIABILITY INSURANCE IN THE FORM AND AMOUNT
- 19 DETERMINED BY THE DIRECTOR BY RULE.
- 20 (b) THE DIRECTOR, BY RULE, MAY EXEMPT OR ESTABLISH LESSER
- 21 LIABILITY INSURANCE REQUIREMENTS FOR A CLASS OF AUDIOLOGISTS
- 22 WHOSE PRACTICE DOES NOT REQUIRE THE LEVEL OF PUBLIC PROTECTION
- 23 THE DIRECTOR ESTABLISHES PURSUANT TO THIS PARAGRAPH (b) FOR ALL
- 24 OTHER AUDIOLOGISTS.
- 25 (2) THE PROFESSIONAL LIABILITY INSURANCE REQUIRED BY THIS
- 26 SECTION MUST COVER ALL ACTS WITH THE SCOPE OF PRACTICE OF AN
- 27 AUDIOLOGIST AS DEFINED IN THIS ARTICLE.
- 28 **12-29.9-113. Confidential agreements to limit practice -**
- 29 **violation grounds for discipline.** (1) IF AN AUDIOLOGIST SUFFERS FROM

1 A PHYSICAL OR MENTAL ILLNESS OR CONDITION THAT RENDERES THE
2 LICENSEE UNABLE TO PRACTICE AUDIOLOGY WITH REASONABLE SKILL AND
3 SAFETY TO PATIENTS, THE AUDIOLOGIST SHALL NOTIFY THE DIRECTOR OF
4 THE ILLNESS OR CONDITION IN A MANNER AND WITHIN A PERIOD OF TIME
5 DETERMINED BY THE DIRECTOR. THE DIRECTOR MAY REQUIRE THE
6 LICENSEE TO SUBMIT TO AN EXAMINATION TO EVALUATE THE EXTENT OF
7 THE ILLNESS OR CONDITION AND ITS IMPACT ON THE LICENSEE'S ABILITY TO
8 PRACTICE AUDIOLOGY WITH REASONABLE SKILL AND SAFETY TO PATIENTS.

9 (2) (a) UPON DETERMINING THAT AN AUDIOLOGIST WITH A
10 PHYSICAL OR MENTAL ILLNESS OR CONDITION IS ABLE TO RENDER LIMITED
11 AUDIOLOGY SERVICES WITH REASONABLE SKILL AND SAFETY TO PATIENTS,
12 THE DIRECTOR MAY ENTER INTO A CONFIDENTIAL AGREEMENT WITH THE
13 AUDIOLOGIST IN WHICH THE AUDIOLOGIST AGREES TO LIMIT HIS OR HER
14 PRACTICE BASED ON THE RESTRICTIONS IMPOSED BY THE ILLNESS OR
15 CONDITION, AS DETERMINED BY THE DIRECTOR.

16 (b) AS PART OF THE AGREEMENT, THE AUDIOLOGIST IS SUBJECT TO
17 PERIODIC REEVALUATIONS OR MONITORING AS DETERMINED APPROPRIATE
18 BY THE DIRECTOR.

19 (c) THE PARTIES MAY MODIFY OR DISSOLVE THE AGREEMENT AS
20 NECESSARY BASED ON THE RESULTS OF A REEVALUATION OR MONITORING.

21 (d) BY ENTERING INTO AN AGREEMENT WITH THE DIRECTOR UNDER
22 THIS SUBSECTION (2) TO LIMIT HIS OR HER PRACTICE, AN AUDIOLOGIST IS
23 NOT ENGAGING IN CONDUCT THAT IS GROUNDS FOR DISCIPLINE UNDER
24 SECTION 12-29.9-108 (2). THE AGREEMENT DOES NOT CONSTITUTE A
25 RESTRICTION OR DISCIPLINE BY THE DIRECTOR. HOWEVER, IF THE
26 AUDIOLOGIST FAILS TO COMPLY WITH THE TERMS OF AN AGREEMENT
27 ENTERED INTO PURSUANT TO THIS SUBSECTION (2), THE FAILURE
28 CONSTITUTES GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION
29 12-29.9-108 (2) (r), AND THE LICENSEE IS SUBJECT TO DISCIPLINE IN
30 ACCORDANCE WITH SECTION 12-29.9-108.

31 (3) THIS SECTION DOES NOT APPLY TO AN AUDIOLOGIST SUBJECT
32 TO DISCIPLINE UNDER SECTION 12-29.9-108 (2) (q).

33 **12-29.9-114. Mental and physical examination of licensees.**

34 (1) IF THE DIRECTOR HAS REASONABLE CAUSE TO BELIEVE THAT A
35 LICENSEE IS UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY,
36 THE DIRECTOR MAY REQUIRE THE LICENSEE TO TAKE A MENTAL OR
37 PHYSICAL EXAMINATION BY A HEALTH CARE PROVIDER DESIGNATED BY
38 THE DIRECTOR. IF THE LICENSEE REFUSES TO UNDERGO A MENTAL OR
39 PHYSICAL EXAMINATION, UNLESS DUE TO CIRCUMSTANCES BEYOND THE
40 LICENSEE'S CONTROL, THE DIRECTOR MAY SUSPEND THE LICENSEE'S
41 LICENSE UNTIL THE RESULTS OF THE EXAMINATION ARE KNOWN AND THE

1 DIRECTOR HAS MADE A DETERMINATION OF THE LICENSEE'S FITNESS TO
2 PRACTICE. THE DIRECTOR SHALL PROCEED WITH AN ORDER FOR
3 EXAMINATION AND DETERMINATION IN A TIMELY MANNER.

4 (2) THE DIRECTOR SHALL INCLUDE IN AN ORDER ISSUED TO A
5 LICENSEE UNDER SUBSECTION (1) OF THIS SECTION THE BASIS OF THE
6 DIRECTOR'S REASONABLE CAUSE TO BELIEVE THAT THE LICENSEE IS
7 UNABLE TO PRACTICE WITH REASONABLE SKILL AND SAFETY. FOR THE
8 PURPOSES OF A DISCIPLINARY PROCEEDING AUTHORIZED BY THIS ARTICLE,
9 THE LICENSEE IS DEEMED TO HAVE WAIVED ALL OBJECTIONS TO THE
10 ADMISSIBILITY OF THE EXAMINING HEALTH CARE PROVIDER'S TESTIMONY
11 OR EXAMINATION REPORTS ON THE GROUND THAT THEY ARE PRIVILEGED
12 COMMUNICATIONS.

13 (3) THE LICENSEE MAY SUBMIT TO THE DIRECTOR TESTIMONY OR
14 EXAMINATION REPORTS FROM A HEALTH CARE PROVIDER CHOSEN BY THE
15 LICENSEE PERTAINING TO THE CONDITION THAT THE DIRECTOR ALLEGES
16 MAY PRECLUDE THE LICENSEE FROM PRACTICING WITH REASONABLE SKILL
17 AND SAFETY. THE DIRECTOR MAY CONSIDER TESTIMONY AND REPORTS
18 SUBMITTED BY THE LICENSEE IN CONJUNCTION WITH, BUT NOT IN LIEU OF,
19 TESTIMONY AND EXAMINATION REPORTS OF THE HEALTH CARE PROVIDER
20 DESIGNATED BY THE DIRECTOR.

21 (4) A PERSON SHALL NOT USE THE RESULTS OF ANY MENTAL OR
22 PHYSICAL EXAMINATION ORDERED BY THE DIRECTOR AS EVIDENCE IN ANY
23 PROCEEDING OTHER THAN ONE BEFORE THE DIRECTOR. THE EXAMINATION
24 RESULTS ARE NOT PUBLIC RECORDS AND ARE NOT AVAILABLE TO THE
25 PUBLIC.

26 **12-29.9-115. Protection of medical records - licensee's**
27 **obligations - verification of compliance - noncompliance grounds for**
28 **discipline - rules.** (1) EACH LICENSEE SHALL DEVELOP A WRITTEN PLAN
29 TO ENSURE THE SECURITY OF PATIENT MEDICAL RECORDS. THE PLAN MUST
30 ADDRESS AT LEAST THE FOLLOWING:

31 (a) THE STORAGE AND PROPER DISPOSAL OF PATIENT MEDICAL
32 RECORDS;

33 (b) THE DISPOSITION OF PATIENT MEDICAL RECORDS IN THE EVENT
34 THE LICENSEE DIES, RETIRES, OR OTHERWISE CEASES TO PRACTICE OR
35 PROVIDE AUDIOLOGY SERVICES TO PATIENTS; AND

36 (c) THE METHOD BY WHICH PATIENTS MAY ACCESS OR OBTAIN
37 THEIR MEDICAL RECORDS PROMPTLY IF ANY OF THE EVENTS DESCRIBED IN
38 PARAGRAPH (b) OF THIS SUBSECTION (1) OCCURS.

39 (2) UPON INITIAL Licensure UNDER THIS ARTICLE, THE LICENSEE
40 SHALL ATTEST TO THE DIRECTOR THAT HE OR SHE HAS DEVELOPED A PLAN
41 IN COMPLIANCE WITH THIS SECTION.

1 (3) A LICENSEE SHALL INFORM EACH PATIENT, IN WRITING, OF THE
2 METHOD BY WHICH THE PATIENT MAY ACCESS OR OBTAIN HIS OR HER
3 MEDICAL RECORDS IF AN EVENT DESCRIBED IN PARAGRAPH (b) OF
4 SUBSECTION (1) OF THIS SECTION OCCURS.

5 (4) A LICENSEE WHO FAILS TO COMPLY WITH THIS SECTION IS
6 SUBJECT TO DISCIPLINE IN ACCORDANCE WITH SECTION 12-29.9-108.

7 (5) THE DIRECTOR MAY ADOPT RULES AS NECESSARY TO
8 IMPLEMENT THIS SECTION."

9 Renumber succeeding C.R.S. section accordingly.

10 Page 19, line 2, strike "PART 1" and substitute "ARTICLE".

11 Page 19, strike lines 6 through 27.

12 Strike pages 20 through 24.

13 Page 25, strike lines 1 through 26.

14 Page 26, line 7, strike "PART 1 OF".

15 Page 26, strike lines 9 through 25.

16 Renumber succeeding sections accordingly.

17 Page 27, line 24, strike "PART 1 OF".

18 Page 28, line 10, strike "part 1 of" and substitute "part 1 of".

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